

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P.(MD)No.22797 of 2022

and

W.M.P(MD).No.16937 of 2022

M/s.The Coimbatore District Textile Workers' Union,
rep., by its Secretary K.Kannan

... Petitioner

Vs

1.The Deputy Commissioner,
Department of Labour Welfare and Skill Development,
Dindigul District, Dindigul.

2. M/s.S.D.M Cot Spin (India) Private Limited,
rep., by its Managing Director,
S.Dharmamoorthy

3.The Authorised Officer,
State Bank of India,
Stressed Asset Management Bank.
Raja Plaza, 1st Floor,
No.1112, Avinashi Road,
Coimbatore 641 037.

4.M/s Vakirakaliamman Spinning Mills Pvt., Limited,
rep., by its Managing Director.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the entire records in pursuant to the impugned order of the first respondent in Naa.Kaa.EN.Aa1/1034/2022 dated 25.04.2022 and quash the same and

consequently direct the second respondent to pay the award amount and to provide employment with continuous service to the 47 permanent employees.

For Petitioner : Mr.R.Sriram
For Respondents : Mr.N.Dilipkumar (for R3)
Mr.A.K.Manikkam (for R1)
Special Government Pleader

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the first respondent and the learned Standing Counsel appearing for the third respondent.

2.The writ petitioner is a registered trade Union. In this writ petition, the petitioner is espousing the cause of the workmen, who were working in the fourth respondent mill. It appears that the fourth respondent availed loan from the third respondent. The account turned into a Non-Performing Asset. The mortgaged assets were brought to sale by invoking the provisions of SARFAESI Act. The second respondent had purchased the mill. The writ petitioner/Union raised demand that the second respondent must continue to engage the erstwhile workers with continuity of service and also pay the arrears of wages. In fact, I.D.O.P.No.48 of 2019 was filed before the Labour Court, Trichirappalli and an award was also passed on 10.07.2020.

3.The grievance of the writ petitioner is that without taking note of the rights of the workers under the provisions of Industrial Disputes Act, 1947, in particular, Section 25 (o), the first respondent has passed the impugned order dated 25.04.2022. The learned counsel appearing for the petitioner took me through the averments set out in the affidavit filed in support of this writ petition and contended that the impugned order passed by the first respondent must be quashed and direction must be given to the second respondent to pay the award amount and also provide employment with continuity of service to the 47 permanent employees of the fourth respondent mill.

4.I went through the contents of the impugned communication dated 25.04.2022. First I wanted to know under which provision of law, the jurisdiction of first respondent had been invoked. Even though the learned counsel for the petitioner strongly relied on Section 25(O) of the Industrial Disputes Act as well as the order dated 31.12.2021 made in W.P.No.5360 and 5365 of 2021, I am not persuaded by the same. The impugned communication dated 25.04.2022 sent by the first respondent and addressed to the other respondents in this writ petition appears to be more in the nature of an advisory. It merely sets out the demand raised by the writ petitioner Union and the stand of the management.

Thereafter, the first respondent had advised both the parties not to indulge in any prejudicial activities. The impugned communication is not in the nature of an enforceable order. Therefore, the question of maintaining a challenge does not arise at all. The second respondent is a private entity and therefore, the question of giving a direction straightaway to the second respondent under Article 226 of the Constitution of India also does not arise. I make it clear that I have not made any pronouncement on the rights of the workers of the fourth respondent mill, whose interest the writ petitioner union is spousing. It is for the writ petitioner to work out their remedy in the manner known to law before the jurisdictional Labour Court or before the appropriate forum. Filing of the writ petition at this stage appears to be misconceived. Leaving open the rights of the writ petitioner and its members, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

29.09.2022

Index : Yes/No

Internet : Yes/No

Rmk

To
The Deputy Commissioner,
Department of Labour Welfare and Skill Development,
Dindigul District, Dindigul.

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G.R.SWAMINATHAN, J.,

Rmk

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